

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
EUGENE DIVISION

NICHOLAS JAMES MCGUFFIN, as an) Civil No.
individual and as guardian ad) 6:20-cv-01163-
litem, on behalf) MK
Of S.M., a minor,)

Plaintiffs,)

vs.)

MARK DANNELS, PAT DOWNING, SUSAN)
HORMANN, MARY KRINGS, KRIS)
KARCHER, SHELLY MCINNES, RAYMOND)
MCNEELY, KIP OSWALD, MICHAEL)
REAVES, JOHN RIDDLE, SEAN)
SANBORN, ERIC SCHWENNINGER,)
RICHARD WALTER, CHRIS WEBLEY,)
ANTHONY WETMORE, KATHY WILCOX,)
CRAIG ZANNI, DAVID ZAVALA, JOEL)
D. SHAPIRO AS ADMINISTRATOR OF)
THE ESTATE OF DAVID E. HALL,)
VIDOCQ SOCIETY, CITY OF COQUILLE,)
CITY OF COOS BAY, and COOS)
COUNTY,)

Defendants.)

DEPOSITION OF MARY KRINGS
Taken in behalf of Plaintiffs
May 05, 2022

* * *

1 BE IT REMEMBERED THAT, pursuant to the Oregon
2 Rules of Civil Procedure, the remote deposition of MARY
3 KRINGS was taken by Amanda K. Fisher, Certified
4 Shorthand Reporter, on May 05, 2022, in the City of
5 Portland, County of Multnomah, State of Oregon.

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APPEARANCES:

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19

20

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2 BY: JESSE B. DAVIS
3 TODD MARSHALL

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11 BY: KARIN L. SCHAFFER

12 Also present: Nicholas McGuffin, Susan Hormann,
13 Marla Kaplan

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1 I N D E X

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3 Examinations Page

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5 BY MR. DAVIS: 138

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7 E X H I B I T S

8 No. Description Page

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12 4 OSP lab letter 100

13 5 Conversation log 104

14 6 Lab protocols 110

15 7 OSP lab letter 119

16 8 OSP lab letter 121

17 9 OSP lab memo 123

18 11 OSP lab letter 129

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1 PORTLAND, OREGON; THURSDAY, MAY 05, 2022

2 9:00 A.M.

3 * * *

4 MARY KRINGS

5 called as a witness in behalf of Plaintiffs,

6 having first been sworn by the Reporter,

7 testifies as follows:

8

9 EXAMINATION

10

11 MS. PURACAL: Why don't we do introductions
12 for the record so that we can see everybody.

13 For Plaintiffs, this is Janis Puracal, and
14 I have my co-counsel Andrew Lauersdorf here, as well as
15 the Plaintiff, Nick McGuffin.

16 MS. HENDERSON: This is Sarah Henderson.
17 I'm attending on behalf of the City and County
18 Defendants.

19 MS. SCHAFFER: Good morning, this is Karin
20 Schaffer and I'm attending on behalf of the Vidocq
21 Society and Richard Walter, sometimes referred to as
22 the Vidocq Defendants.

23 MR. DAVIS: Morning, this is Jesse Davis.
24 I'm here on behalf of Mary Krings, as well as the State
25 Defendants and the Oregon State Police.

1 to 150 range would not be reproducible in your
2 experience, is that right?

3 A. Well, no, because there are some circumstances
4 that might give you more confidence. As I said, I
5 can't recall what those might be exactly, but in my
6 experience, generally not a mixture, that are not very
7 clear. I don't remember an instance where I would have
8 that level of confidence in a mixture.

9 Q. When you say mixture, can we define that? What
10 do you mean when you say mixture?

11 A. Mixture of DNA from more than one person.

12 Q. So you define mixture as anything more than one
13 person?

14 A. Yes.

15 Q. So any time you have DNA contributed from more
16 than one person, then you would not interpret the data
17 between 50 and 150?

18 A. I don't remember a specific instance when I did.
19 I'm not saying that as an absolute I wouldn't ever. I
20 can't recall doing it.

21 Q. When we were talking a little bit earlier about
22 the conclusion on Exhibit 2.3 from the left shoe, and
23 you said that you could not determine the number of
24 contributors there, is that because you
25 determine -- that you had never seen there would be

1 conclusions for Exhibit 1, and I was trying to
2 understand which of these three exhibit numbers you
3 were reporting on -- and maybe we can revisit that
4 conversation.

5 Which of these samples were you reporting the
6 results of in your -- your August 27th, 2000?

7 A. I don't remember writing that report. But, from
8 looking at it recently, I believe that 1.1 and 1.3
9 would've have been the same sentence.

10 Q. Would've been the same sentence? What does that
11 mean?

12 A. In the report.

13 Q. You would've reported it the same way for 1.1 or
14 1.3?

15 A. I believe I would, yes.

16 Q. For Exhibit 1.3 here, I see that you've
17 indicated that there's a Y peak in the sample.

18 Do you see that?

19 A. Yes.

20 Q. The Y peak at the amelogenin location, that
21 tells us that there's male DNA in the sample?

22 A. That's the -- the Y peak in general indicates
23 male DNA.

24 Q. We know in the Freeman case, the victim,
25 Ms. Freeman, was female, right?

1 A. Yes.

2 Q. So the presence of that Y peak tells us that
3 there a male on the sample, and so we know that that
4 didn't come from the female, Ms. Freeman, right?

5 A. That's one possible interpretation. Like I
6 said, the -- I don't know what it -- if it's in
7 parenthesis, that means it's below the threshold, so.

8 Q. A Y peak below the threshold still would not
9 indicate a female, though. It would still indicate a
10 male, correct?

11 A. If it were a true Y allele, it would. That's
12 the issue of the confidence level. It may be. It may
13 not be. It may be.

14 Q. And I see on Exhibit 1.3 that we also have at
15 least one location here, the D5S location, where we've
16 got three alleles that are all above the 150 threshold.

17 Do you see that?

18 A. Yes.

19 Q. So why didn't you report the presence of a
20 potential second contributor based on this three
21 alleles all above the 150 threshold at this locus?

22 A. The 12 is in a stutter position for the 13, and
23 it's not unusual to have some elevated stutter. So
24 it's not -- of itself not definite that it is from
25 another person.

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1 Q. Did you believe that 12 to be stutter?

2 A. I don't know. I don't remember at the time, and
3 I don't remember looking at -- I don't remember exactly
4 what the electropherogram looks like.

5 Q. Let's see if I can find it.

6 I think I found here. I'm going to share my
7 screen with you again, and this is -- we're going back
8 to Exhibit 2, and I'm on page 27 of that PDF here, and
9 I see the electropherogram.

10 Do you see here it's got Exhibit 1.3 noted on
11 there?

12 A. Yes.

13 Q. I see that it's dated July 31st, 2000.

14 A. Okay.

15 Q. And see your initials here at the top, is that
16 right?

17 A. Yes.

18 Q. If we go down to that locus here where we've got
19 the 11, the 12, and the 13, I don't see any indication
20 that you determined that that 12 is stutter.

21 Do you?

22 A. I don't remember if I determined that
23 definitively or not.

24 Q. Well, I noticed that on some of your other
25 electropherogram, for example, the one for 2.4 on page

1 41 of the PDF, I see that you've noted where it's
2 stutter in green, and then you crossed it out.

3 Do you see that?

4 A. Hmm. Yes. Yes.

5 Q. If we go back here to our allele table for
6 sample -- sorry, for Exhibit 1.3, do you have any
7 reason to believe that you determined that the 12 is
8 stutter?

9 A. I don't have any reason to believe that it was
10 definitely determined to be stutter.

11 Q. Do you have any reason to believe that it
12 was -- any reason to suggest that at the time you
13 believed it to be stutter?

14 A. Other than general knowledge that elevated
15 stutterer is not uncommon.

16 Q. And we just looked at the electropherograms. I
17 don't see anything on there where you've indicated that
18 the 12 is stutter. You agree that there was nothing on
19 the documentation that that was stutter, correct?

20 A. The -- those -- the other electropherogram, that
21 was -- I don't believe that was the same thing.

22 Q. Well, I understand we looked at two different
23 electropherogram, right? We looked at one for 1.3 and
24 we looked at one for 2.4. And we were looking at the
25 ones for 2.4 where you actually notate on the

1 electropherogram when you determined something is
2 stutter. Right?

3 A. Yes, and that's not -- that's not what I'm
4 saying. I don't believe that they're measuring the
5 same thing for the same reasons.

6 Q. Can you explain that to me.

7 A. What would you -- I -- I -- I'm not sure that
8 the second electropherogram was calculating elevated
9 stutter or just stutter. That electropherogram had a
10 lot of problems with it.

11 Q. Which one?

12 A. The -- the one with all the markings on it.

13 Q. The one for 2.4?

14 A. That sounds right.

15 Q. That we just looked at?

16 A. Yes.

17 Q. My question was about Exhibit 1.3 and whether
18 you had any reason to believe that at the time you
19 determined that 12 allele to be stutter?

20 A. I do not remember anything from the time, and I
21 don't know that it was ever determined to be stutter.

22 Q. So why did you not report the information about
23 Exhibit 1.3, given that you knew that there were at
24 least three alleles at this one locus here that were
25 above the 150 range?

1 A. I don't -- I don't know that 12 is a -- another
2 allele or if it's elevated stutter, which is not
3 uncommon.

4 Q. I don't see on this allele chart where you have
5 ever recorded any of the alleles that you believe to be
6 stutter, or that you note to be stutter in your
7 electropherograms. It appears that you are reporting
8 those that you determined to be true alleles.

9 Do you disagree with that?

10 A. No. I don't understand what you're saying.

11 Q. Okay. So if we go back here to the document
12 that we looked at before, Exhibit 2, and we were
13 looking at page 41, and we were looking at, as an
14 example, the electropherogram for Exhibit 2.4. We can
15 see, for example, here that you've crossed out the 16
16 allele and noted that it's stutter.

17 If we then look at your allele call sheet, and
18 we go down to 2.4, we can see that you don't note that
19 16 because you've determined it's stutter.

20 A. Yes. For 2.4, it appears that some of those
21 were determined to be stutter.

22 Q. And so you did not note them on your allele call
23 sheet?

24 A. I don't know.

25 Q. Okay. I'm going to show you what I have marked

1 C E R T I F I C A T E

2 STATE OF OREGON)

3) ss.

4 COUNTY OF MULTNOMAH)

5

6 I, Amanda K. Fisher, a Certified Shorthand
7 Reporter, do hereby certify that, pursuant to
8 stipulation of counsel for the respective parties
9 hereinbefore set forth, MARY KRINGS remotely appeared
10 before me at the time and place set forth in the
11 caption hereof; that at said time and place I reported
12 in Stenotype all testimony adduced and other oral
13 proceedings had in the foregoing matter; that
14 thereafter my notes were reduced to typewriting under
15 my direction; and that the foregoing transcript, pages
16 1 to 141, both inclusive, constitutes a full, true and
17 accurate record of all such testimony adduced and oral
18 proceedings had, and of the whole thereof.

19 Witness my hand and stamp at Portland, Oregon,
20 May 16, 2022.

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AMANDA K. FISHER
CSR No. 3229

